# Tasking the Leviathan: Right to Protest, Good Governance, and Implications for National Security and International Law

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# Abstract

The right to good governance is a right inalienable to the democratic process. Content analysis was used as the data source for this paper. This study would attempt to resolve the questions on the intricate connection between the right to protest and the right to good governance in Nigeria and what this means for national security and international law. In this essay, it was argued that the international law space is shrinking for holding the democratic process accountable in sovereign states. The significance of the essay is to suggest a new direction for the engagement of international law mechanisms on human rights and for the provision of policy recommendations for good governance and law enforcement.

**Keywords**: *protests, good governance, international law, national security change, innovation*

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# Review of the Literature/Conceptual Framework

The right to protest provides an interface through which citizens place demands for good governance. Since Nigeria transitioned into democracy in 1999, the hope for good governance and the expectations of democratic transitioning have been very high. From Occupy Nigeria to the End SARS protests, protests in democratic Nigeria have achieved an engagement of the citizenry to the governance process so that more citizens are invested in the political journey of the country. However, Nigeria’s democracy of 20 years has yielded a lot of instability and policies that have proven to work against the citizenry (Dare, 1997). The ascent of democracy in Nigeria has carried significant moments. Moments that have provided for the evaluation of the Nigerian democracy. Since the beginning of Nigeria’s experience with military regimes in 1966 to the transition to democratic rule in 1999, bad governance has seen Nigeria rock from one crisis to another. The democratic transition in 1999 brought hopes to the people of Nigeria; hopes built on the expectation that an elected government would listen to the people when they speak and would respond to the people’s needs. The necessity of the legitimacy of government was pronounced when military regimes in Nigeria from 1966 to 1998 did not tolerate the free expression of the Nigerian people. This is why the respect of fundamental freedoms and human rights is an essential part of democracy (Becker & Raveloson, 2008). The right to protest in Nigeria as a collective response in the guidance of the general interest has been misunderstood even by governments in Nigeria’s democratic dispensation. This misunderstanding has its roots in Nigeria’s political history of despotic regimes. A pattern of governmental responses to protests and protesters across Africa during despotic regimes mirrors how a country’s political future could be fractured. In 2017, thousands of people protested against the Gnassingbe regime in Togo (Wire, 2017). The fallout of that protest, according to *Foreign Brief*, was a repressive stance by the government that led to the death of about 13 people (Suleiman, 2018). In 2018, *Aljazeera* reported that the Ugandan police shot teargas and live ammunition at protesters upset at the arrests and alleged torture of opposition politicians (Aljazeera, 2018). In 2019, Amnesty International reported that there was a “violent crackdown” on protesters by the security forces in Cameroon, resulting in protesters sustaining gunshot injuries. According to Amnesty International (2019), the people were protesting electoral irregularities when they were met with force that resulted in the injury of protesters.

The lack of tolerance for protests in many African countries seems to be symptomatic of a political flaw in the structure of those countries. According to Mix (2014), governments use force even when there appears to be no need for it. Deducing from empirical evidence, Mix concluded that, “It becomes evident that the most totalitarian regimes, this is, centralized power without institutional or democratic constraints, are the ones most likely to kill their people” (Mix, 2014). The position is reflective of something common to the African states that have repressed social movements: They usually have a despotic regime in place or political structures that are too weak to check executive excesses. The demand for good governance in Africa has often been stifled by weak institutions. The fact that executive power in many African states cannot be effectively checked has led to the arbitrary use of power and the repression of any attempt towards dissent. O’Donnell (1998) argued that political competition and participation are essential for the establishment of vertical accountability in a democracy. Autocratic rule sometimes meets resistance that would prove popular. This is because repression and protests are mutually dependent variables (O’Donnell, 1998).

The higher the intensity of a protest, the more an autocratic government feels it needs to crack down on protesters. The rights to protest. and to good governance have implications for national security and international law within the state. Their implications for national security and international law are considered in the context of the fragility of a state, balancing human rights, and the sometimes violent expressions of a protest. Falk (1975) predicted that a new global order of international law would emphasize the importance of the individual and take human rights, self-determination, ecological balance, and peace to be at the forefront of its concerns. This global order of international law seems still far into the future with the recent nationalistic and protectionist tendencies of states in Europe and America. The politics of such states have prevented the transition of international law into Falk’s prediction. For the emergence of that new global order of international law that was predicted by Falk, states would have to embrace globalization and externalize the process of governance (Falk, 1975).

The test of the strength of any democracy is manifested in the conduct of elections, the transition of power, and the treatment of protesters. The right to protest and to good governance are mutual components of a successful democracy. The response of an autocratic government to protests and the denial of good governance are two-way processes, the first being that autocratic governments often do not like dissent, and protests are a form of dissent. The second is that the denial of good governance is owed to the reason that since an autocratic government is self-serving and does not feel a responsibility to the people that are under its rule, it becomes incapable of responding to the needs of the people. It might even lose touch with the economic reality of the state since it is far removed from the people. The state of Nigeria’s democracy is at the point of these symptomatic expressions of autocracy. This study would examine the right to protest and to good governance in the context of Nigeria’s repressive democracy and show their implications for national security and international law, especially as Nigeria serves as a political example in the African region.

# Repression in Nigeria, Fragility of the State and International Law

The right to protest is fundamental to democracy. It is the urgent expression of a people against what they are concerned about in the governance of their country. Article 19 of a nongovernmental organization wrote that: “Protests play an important part in the civil, political, economic, social and cultural life of all societies” (Article 19, 2016). It is the life of public expression and is the way in which public opinion becomes even more emphasized. According to Article 19:

Historically, protests have often inspired positive social change and improved protection of human rights, and they continue to help define and protect civic space in all parts of the world. Protests encourage the development of an engaged and informed citizenry and strengthen representative democracy by enabling direct participation in public affairs. They enable individuals and groups to express dissent and grievances, to share views and opinions, to expose flaws in governance and to publicly demand that the authorities and other powerful entities rectify problems and are accountable for their actions. This is especially important for those whose interests are otherwise poorly represented or marginalised. Yet governments around the world too often treat protests as either an inconvenience to be controlled or a threat to be extinguished. (Article 19, 2016)

The importance of protests to democracy and the right of the citizenry to protest was emphasized by the Article 19 organization. The statement further recognized protests as the way people can engage in public affairs. This direct engagement and its implications for the autocratic government are expressed in the unease that stimulates such autocratic government into attempts to repress protests. Repression is a natural response of autocratic governments to audacious social movements. It is an attempt to quell the agitation of the people, where the agitation challenges the quality of the state’s decisions. In Nigeria, human rights are consistently abused by state agents, and this can extend to such acts as extrajudicial killings, torture, and forced disappearances (Amnesty International, 2018). The right to protest is inextricably linked to good governance. According to the 2020 Ibrahim Index of African Governance, the average score for Overall Governance declined to 0.2 points, and this was because there was a poor performance on the parameters of participation, rights and inclusion, security and rule of law and human development (Mo Ibrahim Foundation, 2020). For many African states, weak institutions are the cause for the fragility of statehood (Vailings & Moreno-Torres, 2005).

This fragility of institutions also allows for the arbitrariness of governmental power, which becomes autocratic as it seeks to contend with any would-be opposing force. Repression is the tool of the autocratic government, and it has severe consequences for state security as shown in the course of this study. Studies on repression have shown that its anatomy is more complicated than mere crackdowns on protests (Chang, 2008; Earl, 2013; Flesher Fominya, 2011). Many times, the approach to the repression of social movements is tactical. Autocratic governments adopt strategies that intimidate dissenters in varying ways, and these strategies still constitute repression. In Nigeria, corruption has always been the main accusatory theme of protests against leadership. In 1989, the *New York Times* reported a violent riot that occurred in Nigeria, both in Lagos and Port Harcourt, that featured angry protesters who accused the Babangida regime of corruption amidst austere economic policies (Noble, 1989). That riot ended with the death of some of the protesters and the injury of many of them (Noble, 1989). The repression of dissent in Nigeria started with the military regimes. The regimes were the standard autocratic governments that censored speech and saw to the persecution of political opponents.

The military governments also repressed press freedom (Oloyede, 2002). The Occupy Nigeria protest was a test of Nigeria’s democracy at a time when economic questions became a war of wits between government, their opposition, and the common people. At the time, the protest was in reaction to the removal of the fuel subsidy (Egbunike, 2015). Although the removal of the fuel subsidy at the time was the economically sound thing to do, the protest, beyond its uncomplicated demand, was a reaction to the government’s perceived insensitivity to the economic situation of the common people. Within the scope of international law, democracy is seen as a multidimensional concept (Bach-Golecka, 2018). First, it presents a collective right to a people to decide their own affairs, and second, it presents the individual the right to be a participant in the affairs of their own state (Bach-Golecka, 2018). The Universal Declaration of Human Rights (UDHR, 1948) provided that individual persons are entitled to participate in the administration of their country, either by themselves or through representatives, stemming from the expectation that since democracy is about a people deciding their fate through elections, good governance must be a function of that elective system. Brown Weiss and Sornarajah (2013), in their encyclopedic entry, noted that

The contemporary concept of good governance developed from the discourse between the Bretton Woods institutions and developing countries, in which good governance represented the standard of public administration expected of developing countries, both as a condition for, and an objective of, assistance (see also Bretton Woods Conference [1944]). Good governance has come to be viewed as necessary for sustainable development. While the elements of the concept were linked mainly to economic development and financial accountability by the World Bank. (p. 1)

What constitutes good governance can often have conflicting interpretations by international institutions like the Bretton Woods system and by the citizens of a country. In Nigeria, the implementation of conditional terms for loans by the Bretton Woods institutions has often pitted the government against the masses. This was the case in 1989 when there was an anti-Structural Adjustment Programme protest by the student movement in Nigeria (Shettima, 1993). The Structural Adjustment Programme (SAP) was a conditional term for loans given by the World Bank and the International Monetary Fund, and it was intended as economic reforms against the existing working policies of African states (Danladi & Naankiel, 2016). Zattler (1989) has argued that for SAPs to be successful, they must go beyond mere economic efforts towards social processes. He further argued that the success of SAPs depends on a political divergence from the interests of those who had controlled the ailing economy and that implementing SAPs without rectifying the political influences that were earlier in place would result in the failure of any true economic reform (Zattler, 1989). While some research shows negative effects on local industries (Muhammad, 2018) some people were led to believe that SAP had no intrinsic benefits. According to Muhammad, the policy designers and those who were to implement it were questionably insincere, since there was a marked negative effect on local manufacturing from data collected from a time frame of 1986 to 2016. There was a convergent point for Muhammad’s and Zattler’s arguments where they agreed that it takes political sincerity to implement SAPs successfully, as those who oversee a weak economy and have benefitted from the weakness can rarely be trusted to implement effective reforms. This is the point of disconnect with the people, and where the concept of good governance must bear trust and citizens’ goodwill.

Good governance is necessary for national security, and it has reference in international law. According to the United Nations Millennium Declaration (2000), good governance is the solution to poverty (United Nations Millennium Declaration, 2000). This statement, although it does not legally bind the member states of the United Nations, it is a document that affirms a common purpose for the practice of good governance (Jokinen, 2002). The right to good governance is an unwritten term in the social contract. People are entitled to an expectation of political and moral fortitude of an elected government. Good governance usually is associated with democracy because a people can demand it through protests without fear of repression. When a government negates it, it breaks the term of its legitimacy and becomes a threat to the collective security of the state. Badmus (2005) argued that there is a connection between economic security and national security. His premise that economic prosperity also affects the state of national security was supported by McNamara (1966), who had earlier argued that, in the evolution of society, security becomes economic development. McNamara stated that a significant part of national security is not military, even though it is a component, but that the most part of national security is development.

Having noted the importance of good governance towards resolving the problem of poverty, it is also instructive that good governance addresses the issue of national security. Bertocchi (2010) has, however, argued that weak or unstable governance is symptomatic of state fragility, which is caused by weak institutions. The problem of weak institutions, expressed in the form of lack of the rule of law and an incapacity of the state to provide security and necessary infrastructure, is a challenge that has plagued many African states, including Nigeria. The fragility of the Nigerian state has often been demonstrated in its continual failure to deliver good governance and to secure the rights of its people. It has also been demonstrated in its inglorious reputation of being unable to offer basic services and in its embarrassing lack of control over its territory. The Nigerian state has continuously failed to secure its citizens from nonstate violence and, in fact, has deteriorated in its ability to offer its citizens protection from both state and nonstate violence.

The weakness of the polity started to get exposed when in 2009, Boko Haram picked up arms against the Nigerian state (Guitta & Simcox, 2014). The tragedy of state failure in Nigeria is a resultant effect of a refusal to embrace institutional change. As Nganje (2015) argued, one of the reasons for the failure of institutions is the lack of political will to adapt institutions to a changing social and cultural environment. The right of the Nigerian people to make demands of the government and to good governance have immense significance for national security, as protests are a way to demand accountability either of the democratic process or institutional process. The End SARS protest, a protest that started as a demonstration of displeasure against police brutality and lawlessness, exposed the serious institutional weakness in Nigeria. The normalization of the abuse of institutional power and of impunity within the police force had affected the operations of the police. There had been wide-spread reports of extra-judicial killings perpetrated by a special unit of the Nigerian police. As far back as 2009, Amnesty International (2009) reported that:

Extrajudicial executions, other unlawful killings and enforced disappearances in Nigeria are not random. In a country where bribes guarantee safety, those who cannot afford to pay are at risk of being shot or tortured to death by the police. The families of the victims often cannot afford to seek justice or redress, because they cannot pay for a lawyer or the court fees. In many cases, they cannot even afford to retrieve the body. (p. 3)

# International Law Current Sanctioning Mechanisms for Human Rights and State Repression

The Nigerian state’s repression of the End SARS protest has implications in international law, specifically for the universal principles of human rights. The International Covenant on Civil and Political Rights (ICCPR, 1966) stated, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” This provision exists in many constitutions and transcends jurisdictions in its protection. The Nigerian government’s invisible role in the killings of the protesters both through state security institutions and other means is becoming unraveled in forensic investigations carried out by international media agencies (Busari et al., 2020). Although ICCPR further allowed for exceptions in the derogation of certain rights in the event of a threat to “the life of the nation” or other exigencies, it does not allow a derogation from Article 6 and some other articles (International Covenant on Civil and Political Rights, 1966). The 1999 Constitution of the Federal Republic of Nigeria provides as well that “Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.” The contravention of this constitutional provision by government security forces during the End SARS protests and the evasive manner the Nigerian government has attended to the killings has heightened distrust of the justice mechanisms in the country.

The regional human rights mechanism, the African Charter on Human and People’s Rights (Banjul Charter) 1986 also provided for the right to life: “Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right” (African Charter on Human and People’s Rights, 1986). The arbitrariness with which the Nigerian police have for many years taken the lives of many people who were either arrested for no reason or arrested without prosecution in a court of law have seen no positive response. The largely ignored predatory relationship of government security forces with Nigerians and the seeming support of the government of the arbitrariness of that has become institutional practice within the security architecture of the Nigerian state had bred distrust and civil resistance in the Nigerian people. For many years now, the institutional mechanisms, such as the regional human rights courts through which human rights ought to be protected at a supranational level, have faced significant challenges like the encumbrance of sovereignty and politicization. These challenges have roots in the fact that states have sought their own interests, and international political morality has often been internalized rather than externalized.

This is because of the rise of foreign policy regimes that attend to selected international events in view of the extent to which the state that is concerned feels its interests affected by such international events. The world has gotten smaller since the invention of the internet. Globalization is growing stronger and yet it appears that states would rather see to their own business rather than seek the accountability of governments to set international standards. The rights to protest and to good governance are essential for the success of democracy and from what history has shown about governmental legitimacy; the power belongs to the people when it comes to demanding accountability in a democracy. This was the case in the End SARS protest. The people found their voice and the exercise of that democratic power drew global attention. The Nigerian government’s response to the End SARS protests was a clampdown on protesters that led to the severe violation of human rights (Uwazuruike, 2020). If it is assumed that the essence of the social contract between the citizen and their government is, besides other things, the preservation of the life and properties of the citizen, then the breach of the social contract was not an inevitable occurrence. Instead, it was an indication that the Nigerian government would rather prey on the citizens than protect them.

Multiple sources, including video evidence, present soldiers who appeared to have shot in the air, but later shot at protesters (Amnesty International, 2020). The brazenness with which human rights were violated by the Nigerian government during the End SARS protests reflected a concern about the state of international law mechanisms and their willingness to hold states accountable to principles that are essential to improving the human condition. The violation of human rights by states is not a new practice. In fact, the making of the Universal Declaration of Human Rights was inspired by the need to engage human rights as a focal point for the social contract between the state and citizens. This need was further concretized by Article 1(3) of the United Nations Charter which provides that “To achieve international cooperation… in promoting and encouraging respect for human rights and for fundamental freedoms for all.” From this, it is evident that human rights are of great international concern. However, states’ sovereignty presents a rather formidable challenge in the protection of human rights (Alston & Goodman, 2013). This has led to debates about when international law could intervene in matters regarding human rights within the domestic jurisdiction of states.

The affirmation of the essence of the social contract between the state and citizens was the spirit behind the 2005 General Assembly Resolution 60/1, which was a resolution alternatively known as the “responsibility to protect” (Tomuschat, n.d.). The resolution was to ensure that states protect their citizens from “genocide, war crimes, crimes against humanity and ethnic cleansing” (Tomuschat, n.d.). There was the option of the UN Security Council invoking its powers under Chapter VII of the UN Charter in the event that states do not fulfill the obligation under the responsibility to protect (Tomuschat, n.d.). The doctrine of the responsibility to protect, which resonates with the capacity of state power, is a standard that measures when the UN could intervene in human rights issues occurring within states. When it fails, the jurisdiction of the International Criminal Court, which is constituted in Article 5 of the Rome Statute of the International Criminal Court (ICC Rome Statute), can be invoked to address any of the violations listed. Article 7 of the ICC Rome Statute specified that crimes against humanity do not need to take place during an armed conflict (Rome Statute of the International Criminal Court, 1998). What this implies is that crimes against humanity could be committed where disproportionate violence characterizes the asymmetric power relations between civil authorities and their subjects. To take it a step further, it could be framed in the context of the conduct of the state regarding its handling of civil resistance. There is a thin line between random acts of violence against protesters and state-sponsored acts of violence against civil resistance, which could fall into the description of crimes against humanity if the elements align with those in Article 7 of the ICC Rome Statute. The UN Human Rights Council, which was established in 2006, was to continue from where the defunct United Nations Commission on Human Rights (UNCHR) stopped. The duty of the UN Human Rights Council is to actively engage the intent of Article 1(3) of the UN Charter, which is to “promote and to protect human rights” (Charter of the United Nations, 1945). Kaffah (2020) has argued that the challenge of politicization which has manacled the UN Human Rights Council, was an inheritance from the UNCHR. He further argued that the standard-setting duty of the Human Rights Council has not proved to be better than the institution it replaced, since it has often been confronted by the interests of member states (Kaffah, 2020). This would appear to be correct because, in some cases, the UN has often been accused of not being consistent in upholding the values which are crucial to its founding (Kaffah, 2020).

This might be because the UN system has had to serve two purposes: the political and the legal. It is necessary to note that law does not often serve justice because the juristic process of law most often stems from political institutions and this is the main problem with the UN human rights system. It might be satisfying that the unrealistic expectations on the UN have diffused into regional mechanisms like the African Union, but the problem remains. Ever since the human rights system became regionalized and regional mechanisms were able to develop institutions that would attend to human rights issues within regions, it has become necessary to interrogate the capacity of regional human rights sanctioning mechanisms. The starting point for the Organization of African Unity (OAU) was not the promotion of human rights (Centre for Human Rights, Faculty of Law, University of Pretoria, 2016).

The initial purpose of the institution was to further the political interests of African states at the global level, and it was to chart a new political path for post-independent African states. The African Union (AU), which was developed from the remains of the OAU, came with institutions that were more suited to the new realities of an Africa witnessing a rapidly changing environment. Under the AU, through the instrumentality of the African Charter on Human and People’s Rights (Banjul Charter), the African Commission on Human Rights and People’s Rights was established in 1987 to protect and promote human rights. The human rights perspective of the African Commission reflects the communitarian concerns in Africa since the Banjul Charter, which established it recognized collective rights to a significant extent. This was in line with the communitarian social philosophy that has been practiced in many African societies (Lalude, 2019). The African Court on Human and People’s Rights is also an institution towards the enforcement of human rights at the regional level. It was established by Article 1 of the Protocol to the African Charter on Human and Peoples’ Rights (the Protocol) prior to the existence of the African Union under the dispensation of the OAU. The African Commission, empowered by Article 45(1)(c) of the Banjul Charter, has been engaged in the promotion and protection of human and peoples’ rights through collaborative work with other regional bodies and institutions in Africa.

The work of the African Commission towards the protection of human rights has been carried out through its communications, resolutions, and the fact-finding missions and its letters (African Commission on Human and Peoples’ Rights, 2019). However, the nature of human rights violations in Africa needs more active engagement. In the work of the ECOWAS Community Court of Justice, which was established by Articles 6 and 15 of the Revised Treaty of the Economic Community of West African States (Access Now, 2020), there have been some human rights victories against state repression that highlight the importance of a subregional court. In June 2020, the ECOWAS Court ruled that the order of the Togolese government to shut down the internet was illegal and against the freedom of expression (Economic Community of West African States, n.d.). The dynamism of state repression and the violence that often emanates from it has made international law interventions quite dependent on its magnitude. As such, crimes against humanity in the context of civil resistance could be brought up only upon the systematic, widespread nature of violence that state repression could muster. The African human rights mechanisms are new and are faced with many challenges, including the type that encumber the United Nations system. The international rule of law is still a question in the political manifestations of state interactions. States will continue to engage sovereignty as a defense against external criticism on issues relating to human rights.

# Statement of the Problem

It is understood that democracy ensures political stability and allows for a sustainable cohesion of the state. The right to protest and good governance are necessary components of a social contract between the state and citizens of a state. It was therefore necessary to examine how the right to protests and good governance help maintain national security and investigate the framework within the international law system that protects protesters under international law.

The political trend of autocratic regimes across Africa has threatened the democratic agenda in Africa and the mechanisms through which is it is meant to be perfected. Democracy as a political system can best be advanced through the protection of human rights and fundamental freedoms, particularly the freedom of expression, which is often the mechanism through which collective grievance can be articulated in protests and demonstrations.

**Research Questions**

1. Are the right to good governance and the right to protest essential to maintaining national security?
2. Is the international law system equipped with the right capacity to protect protesters against autocratic repression?

**Methodology**

This essay employed analytical research and content analysis in resolving the research questions. By the use of analytical research, there was a critical analysis of the right to protests and the right to good governance, their place in international law, and their impact on national security. This essay used content analysis to collect thematic data that strengthened the central argument that there is a right to protest and to good governance and these rights define national security, and as such, should be protected by international law. Some of the documents used in writing this essay were books, journal articles, reports by international nongovernmental organizations, such as Amnesty International, and international treaties. It also made use of websites, media, index ratings, and institutional reports.

**Data Analysis**

There is evidence to show that autocratic regimes repress protests, and this often threatens national security just as bad governance does. Previous studies on the importance of the right to protest showed that it is essential to democratic accountability. Prior studies and available data demonstrated that when the right to good governance is denied, there is a negative impact on national security, and the only way to secure the right to good governance is to have a well-protected right to expression, which can be expressed in protests, when there is a collective political grievance or demand on the state. This essay examined the major cause of bad governance, which is low executive accountability and identified a symptomatic effect of bad governance on national security, in the form of weak law enforcement. The essay was an analytical research study that derived results on the importance of promoting and protecting the rights to protests and to good governance.

**Results of the Content Analysis**

This essay resolved the question about the significance of the rights to protest and good governance to national security and their place in international law by showing a trend of historical events that demonstrated political responses to public policy. In this essay, content analysis was done on books, journal articles, reports by international nongovernmental organizations, and international treaties. It also made use of websites, media, index ratings, and institutional reports to create a thematic network that provided a foundation for the central thesis on the impact of the rights to protests and good governance on national security and the framework in international law that protects them.

# Discussion

Repression as a tool of autocratic muzzling of dissent was one of the themes examined by this study. It was found that in states where there is less political accountability, the tendency for the state to repress protests is very high, and the intensity of the repression often takes lethal forms. It has been argued that the tendency for autocracies to repress dissent is based on the need to minimize political risks (Tsourapas, 2020). There are indicators that protests are seen as significant political risks by autocratic regimes, and the regimes often incentivize decisive acts of repression by discouraging protests. In this essay, it was shown that repression is a significant threat to the right to protest, to freedom of expression, and ultimately to democratic accountability. Therefore, the right to protest is a safeguard in international law to preserve the sanctity of democratic processes. In this essay, political accountability is interpreted to be good governance. The right to good governance was argued to flow from the social contract between the state and its subjects and that the state would administer the affairs that would provide opportunities and security for everyone.

The social contract also should cover the protection of human rights as necessary to create platforms on which human rights can be delineated and protected in society. In contextualizing the place of international law in the protection of the rights to protests and good governance, it was argued that there was an extreme politicization of the international law system that prevents adequate protection and promotion of human rights. International law provides for the protection of human rights and is replete with mechanisms to effectively provide protection, yet there is a restraint on international law in its protection of human rights at the national level. This is because international law is processed in the international politics of states. The importance of the rights to protest and to good governance were shown to have great impact on national security. This is because fragility of states is defined by governance capacity. The poorer the quality of governance, the more security risks a state portends to itself (Crocker, 2019). In drawing the connection of police brutality to autocratic tendency, I argued that the propensity of state autocracy often intensifies the brutality of a police force, since a police force becomes more powerful with state sanction of arbitrariness (Roberg et al., 2015).

# Summary

The first part of the essay provided a foundation for the right to protests using a historical account of Nigeria and other African states’ political responses to protests. Suggesting that repression descends from autocratic regimes, the essay discussed the importance of protests to democratic accountability. The essay provided the international law framework that supports the right to protest and to good governance. The link between good governance and democratic accountability was established, showing that good governance was necessary to keep the polity stable and to ensure national security. The essay concluded that both the right to protests and to good governance are significant to democratic success and provided recommendations for good governance and policing.

# Conclusions and Recommendations for Further Research

The right to protest and to good governance are essential components of strong democracies. They are the entitlement of the people in any democratic setting. These rights form the democratic spirit in which the UDHR 1948 stated “The will of the people shall be the basis of the authority of government” (Universal Declaration of Human Rights, 1948). The implications of the rights to protest and good governance as important parts of the democratic process offer political stability as they represent both a medium of collective expression and of the responsiveness of the state. The protection of these rights through effective supranational mechanisms of global governance would help in the development of the democratic processes. It would give citizens of developing democracies the hope of external alliances badly needed to check state repression.

**A New Direction for the Regional Human Rights System in Africa**

If the approach of regional international law mechanisms on human rights towards enforcement would be effective, it will not be that enforcement would take the form of what is known within domestic jurisdictions as the sovereignty of states prevents regional international law mechanisms from adopting a positivist approach to the enforcement of international law norms. It would be that regional international law mechanisms would have to adopt a less reactionary approach as they seek to protect and promote human rights on the continent. They could use intense campaigns that would aim at the resolution of state-sponsored human rights violations. It is pertinent to note that the regional international law mechanisms on human rights enforcement cannot work in a vacuum. They would have to work closely with nongovernmental organizations whose work focus is on human rights across Africa. One way regional international law mechanisms could engage these NGOs is to form a network of presence in countries through civil society groups. They could help with the training and development of human rights advocates working within civil society groups and offer field support. Politicization is an inevitable element in the operation of international law mechanisms on human rights. This is because they emerged from an international system that was first political in its purpose before it aspired to any other evolutionary form.

Although politicization is inevitable, extreme politicization is detrimental to the functionality of international law mechanisms on human rights. Burke (2017) has properly placed extreme politicization into context when he argued that the human rights diplomacy often played at the UN is often marked by sentiment, describing thus, that “Human rights diplomacy was a province where sentiment mattered, not merely due to the evocative power of the subject matter—the fate of individuals—but in the practice of diplomacy itself” (Burke, 2017). Extreme politicization, therefore, defeats the purpose of human rights advocacy since it does not consider the fundamentals above the peripherals in multilateral relations. International law mechanisms on human rights can avoid extreme politicization if they are more inclined to the needs of the civic space across the region. Inclining to the needs of the civic space can best be done through rotational programs that target vulnerable countries that tend to record the highest abuses of human rights on the continent. Through these programs, which could be campaigns to rally civil society groups to action, a consciousness could be established that would ensure a vibrant civic space. The argument for some of the limitations of the regional human rights system in Africa is often that there is not enough funding to pursue more ambitious programs. The question of funding would seem to present a serious challenge to the new direction which the work of the regional human rights system in Africa would take, but collaborations could make project expenditure less. If there are enough collaborations between regional human rights mechanisms and the UN human rights system, much could be achieved.

**Good Governance and Policing for National Security in Nigeria**

Weak law enforcement is a phenomenon that is not strange to many developing countries, and it is reflective of low-level executive accountability. Where there is no executive accountability, the resulting arbitrariness often flows down into law enforcement so that the police would fail at actual law enforcement but would succeed at enforcing the whims of the state. Therefore, the more autocratic a state is, the more brutal the police force. This is pitched against the model of democratic policing, which suggests that policing is framed by consensus and the assent of the public (Rogers, 2014). What this means is that democratic police would serve the interests of the public and not the interests of powerful people holding public offices. It further suggests that the first allegiance of a police department would be to the rule of law. In the case of Nigeria, as with many developing countries, the police are hardly democratic. This is because of the low score on governance and of the regard for the rule of law. The Ibrahim Index of African Governance (IIAG), which is a statistical evaluation of governance in African states, showed a downward trend in overall governance of -1.6 for Nigeria. It was indicated that this downward trend has been occurring since 2010. The IIAG further scored Nigeria 45.5 out of 100 for overall governance; 43.6 for participation, rights, and inclusion; 47.0 for rule of law and justice; and 34.9 for law enforcement (Mo Ibrahim Foundation, 2020).

The executive arbitrariness which characterizes governance in Nigeria permeates every other executive institution. Institutional weakness in Nigeria largely derives from the power imbalance that flows from constitutional defects into the interactions of the organic structures of government. As Lalude and Fatehinse (2020) rightly noted, “Social justice can only be granted by institutions with the right kind of power and influence” (p. 29). What this suggests is that the reformation of the Nigerian police towards democratic policing would have to be through good governance. It is important to note that the two pillars of good governance are transparency and accountability. To achieve transparency and accountability within the institutions of government in Nigeria, there must be an unbundling of public sector concerns. What this means is that government must focus more on delivering essential public goods rather than actively participating in the economic sphere, battling private sector actors for profit while at the same time taxing them. When government is focused on providing public goods, more resources are devoted to the challenges that could plague the effective delivery of public goods. To engender more accountability within public institutions in Nigeria, there should be a breakdown of executive powers, where the executive has little role in the appointment of members of the judiciary. It would also be necessary to have legislation that would limit the duration of tenure at the legislative houses, where extensive tenures have produced an oligarchic class of people who serve as gatekeepers of the executive arm of government and broker power in a way detrimental to democratic progress.

The problem of policing in Nigeria starts from recruitment. Often, many of the police officers recruited do not seem to be suitable for the peculiar demands of the job (Ojo & Olufemi, 2014). Recruitment and selection are among the most important components of effective policing, as poor recruitment could lead to incompetent personnel. According to a student manual on policing, “Poor recruitment and selection procedures result in hiring or promoting personnel who cannot or will not communicate effectively with diverse populations, exercise discretion properly, or perform the multitude of functions required of the police” (Cox et al., 2019, Chapter 4). This resonates with the state of policing in Nigeria today, where police officers harass, intimidate, and brutalize members of the public where effective communication could have resolved matters (Lipson, 2007). To allow for a better recruitment process, recruitment and selection must be informed by standard recruitment strategies. It is also important for police officers to undergo retraining to ensure that police personnel have knowledge of good police practices and that they understand the value of effective communication. To ensure that there is transparency in the Nigerian Police Force, it is necessary that police accounts are audited by independent auditors to curb incidences of high-level graft in the police force. Another problem with the Nigerian Police is its militarization. The militarization of the police in Nigeria is partly responsible for police brutality and this was a legacy from past military regimes. To demilitarize the police force, legislative limitation of police powers would be necessary. It would also be pertinent to reform the operational practices to reflect an institution that is civil and which truly serves the public.

**References**

African Charter on Human and People’s Rights. (1986). *Article 4*.

Access Now. (2020, June 25). *ECOWAS court upholds digital rights, rules 2017 internet shudtdowns in Togo illegal*. https://accessnow.org/internet-shutdowns-in-togo-illegal/

African Commission on Human and Peoples’ Rights. (2019). *Addressing human rights issues in conflict situations: Towards a more systematic and effective role for the african commission on human and peoples’ rights*. African Commission on Human and Peoples’ Rights.

Aljazeera. (2018, August 20). *Ugandan police clash with opposition protesters*. <https://www.aljazeera.com/news/2018/8/20/ugandan-police-clash-with-opposition-protesters>

Alston, P., & Goodman, R. (2013). *International human rights.* Oxford University Press.

Amnesty International. (2009). *Killing at will extrajudicial executions and other unlawful killings by the police in Nigeria.* <https://www.amnesty.org/en/documents/afr44/038/2009/en/>

Amnesty International. (2018, December). *Nigeria human rights.* <https://www.amnestyusa.org/countries/Nigeria>

Amnesty International. (2019, January 28). *Cameroon: Peaceful protesters targeted in violent crackdown must be released*. <https://www.amnesty.org/en/latest/news/2019/01/cameroon-peaceful-protesters-targeted-in-violent-crackdown-must>

Amnesty International. (2020, October 21). *Nigeria: Killing of #EndSARS protesters by the military must be investigated.* <https://www.amnesty.org/en/latest/press-release/2020/10/killing-of-endsars-protesters-by-the-military-must-be-investigated/>

Article 19. (2016). *Defending freedom of expression and information: The right to protest: Principles on the protection of human rights in protests.* Article 19: Free Word Center.

Bach-Golecka, D. (2018). The emerging right to good governance. *Symposium on Thomas Franck’s “Emerging Right to Democratic Governance” at 25*.

Badmus, I. A. (2005). Nigeria’s national (in)security: The threat analysis. *Peace Research, 37*(1).

Becker, P., & Raveloson, J.-A. A. (2008). What is democracy? Friedrich-Ebert-Stiftung (FES).

Bertocchi, G. (2010, April 06). The empirical determinants of state fragility. *VOXEU CEPR*.

Burke, R. (2017). Emotional diplomacy and human rights at the United Nations. *Human Rights Quarterly, (39),* 273–295.

Busari, S., Elbagir, N., Mezzofiore, G., Polglase, K., Platt, A., & Arvanitidis, B. (2020, November 24). *Analysis of CCTV footage from Lekki toll gate raises new questions about shooting*. CNN.

Centre for Human Rights, Faculty of Law, University of Pretoria. (2016). *A guide to African Human Rights System.* Pretoria University Law Press.

Chang, P. Y. (2008). Unintended consequences of repression: Alliance formation in South Korea’s democracy movement (1970-1979). *Social Forces, 87*(2).

Charter of the United Nations. (1945).

Constitution of the Federal Republic of Nigeria. (1999). *Section 33(1)*.

Cox, S. M., Massey, D., Koski, C. M., & Fitch B. D. (2019). *Introduction to policing*. Sage.

Crocker, C. A. (2019, January 14). African governance: Challenges and their implications. *Governance in an Emerging New World, Winter Series (119)*. Hoover Institution. <https://www.hoover.org/research/african-governance-challenges-and-their-implications>

Danladi, A., & Naankiel, P. (2016). Structural adjustment programme in Nigeria and its implications on socio-economic development 1980–1985. *Calabar Historical Journal, 6*(2).

Earl, J. (2013). Repression and social movements. *The Wiley Blackwell Encyclopedia of Social and Political Movements*.

Economic Community of West African States. (n.d.). *Community Court of Justice.*

Egbunike, N. (2015). Framing the Occupy Nigeria Protests in newspapers and social media. *Open Access Library Journal*.

Falk, R. (1975). A new paradigm for international legal studies prospects and proposals. *Yale Law Journal, 84.*

Flesher Fominya, L. W. C, & Wood, L. (2011). Repression and social movements. (Editorial). *Interface, 3*(1), 1–11.

Guitta, O., & Simcox, R. (2014). *Terrorism in Nigeria: The threat from Boko Haram and Ansaru.* The Henry Jackson Society: <http://henryjacksonsociety.org/wp-content/uploads/2014/06/Nigeria-Boko-Haram-Strategic-Briefing.pdf>

International Covenant on Civil and Political Rights. (1966). *Article 4(1–2)*.

International Covenant on Civil and Political Rights. (1966). *Article 6(1)*.

Jokinen, J. (2002). International legal instruments addressing good governance. UN-Habitat: Global campaign on urban governance, Urban Governance Section, Urban Development Branch.

Kaffah, A. U. (2020). The United Nations Human Rights Council’s performance: Achievements and challenges. *Aberdeen Student Law Review, 10*.

Lalude, O. M., & Fatehinse, A. (2020). Economic Justice and judicial structure: Realizing economic growth in nigeria. *Society & Sustainability, 2*(2). <https://doi.org/10.38157/society_sustainability.v2i1.53>

Lalude, O. M. (2019). The African moral perspectives on human rights and their influences on Anti-Gay Laws in Nigeria and Kenya. *International Journal of Legal Studies and Research, 8*(2). <http://dx.doi.org/10.2139/ssrn.3454043>

Lipson, M. (2007). Peacekeeping: Organized hypocrisy? *European Journal of International Relations, 13*(1).

McNamara, R. S. (1966, May 18). Security in the contemporary world: Speech before the American Society of Newspaper Editors, Montreal, Canada. *The New York Times*.

Mix, T. (2014). Lethal repression of peaceful protests in Africa.Why do (non-)accountable and military regimes shoot. *Masters Dissertation*. Institut Barceloan Estudis Internacionals.

Mo Ibrahim Foundation. (2020). *2020 Ibrahim Index of African Governance* (IIAG). <https://mo.ibrahim.foundation/iiag>

Muhammad, M. (2018). Structural adjustment programme and its impact on the Nigerian manufacturing sector (1986–2016). *Techno Science Africana Journal, 15*(2).

Nganje, F. (2015, September). Moving beyond Africa’s crisis of institutions. South African Institute of International Affairs: Governance and APRM Programme.

Noble, K. B. (1989, June 4). Economic riots are spreading in Nigeria*.* *New York Times*.

O’Donnell, G. A. (1998). Horizontal Accountability in new democracies. *Journal of Democracy, 9*(3).

Ojo, D., & Olufemi, M. (2014). ‘The Nigeria police and the search for integrity in the midst of diverse challenges: An effective police management approach. *International Journal of Police Science & Management, 16*(2). <https://doi.org/10.1350/ijps.2014.16.2.330>

Oloyede, I. B. (2002). The press under military rule in Nigeria, 1966–1993. PhD thesis, University of Ibadan.

Roberg, R., Novak, K., Cordner, G., & Smith, B. (2015). *Police and society* (6th ed.). Oxford University Press.

Rogers, C. (2014). Maintaining democratic policing: The challenge of police leaders. *Public Safety Leadership Research Focus, 2*(2).

Rome Statute of the International Criminal Court. (1998).

Shettima, K. A. (1993). Structural adjustment and the student movement in Nigeria. *Review of African Political Economy, 56*.

Suleiman, M. D. (2018, January 1). *Protests in Togo: The Gnassingbe dynasty may fall next.* Foreign Brief. <https://www.foreignbrief.com/africa/protests-togo-gnassingbe-dynasty-may-fall-next/>

Tomuschat, C. (2017). *Protection of human rights under universal international law*. UN Chronicle, 53(4), 23–25. <https://doi.org/10.18356/57d2ebc0-en>

Tsourapas, G. (2020). Global autocracies: Strategies of transnational repression, legitimization and co-optation in world politics. *International Studies Review*. <https://doi.org/10.1093/isr/viaa061>

Universal Declaration of Human Rights. (1948). *Article 21(3)*.

Universal Declaration of Human Rights. (1948). *Article 21*.

United Nations Human Rights. (2000). *The United Nations Millennium Declaration* <https://www.ohchr.org/EN/ProfessionalInterest/Pages/Millennium.aspx>

Uwazuruike, A. (2020, November 12). #End SARS: The Movement against police brutality in Nigeria*.* Harvard *Human Rights Journal*. <https://harvardhrj.com/2020/11/endsars-the-movement-against-police-brutality-in-nigeria/>

Vailings, C., & Moreno-Torres, M. (2005). Drivers of fragility: What makes states fragile? *PRDE Working Paper No 12824*. <https://doi.org/10.22004/ag.econ.12824>

Weiss, E. B., & Sornarajah, A. (2013). Good governance. *Oxford Public International Law: Max Planck Encyclopedias of International Law*. [https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1413](https://opil.ouplaw.com/view/10.1093/law%3Aepil/9780199231690/law-9780199231690-e1413)

Wire, N. (2017). *Thousands protest in Togo to demand exit of President Gnassingbe (France 24 31 December 2017)*. France 24. <https://www.france24.com/en/20171231-togo-thousands-demonstrate-lome-against-president-faure-gnassingbe>

Zattler, J. (1989). The effects of structural adjustment programmes. *Intereconomics, 24*(6).

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